

ORDINANCE NO. 03-253

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS  
AMENDING THE LOS ALTOS MUNICIPAL CODE BY AMENDING CHAPTERS  
14.02, 14.06, 14.08, 14.10, 14.12, 14.14 AND 14.48 OF TITLE 14 PERTAINING TO SECOND  
LIVING UNITS, BASEMENT DEFINITIONS, ACCESSORY STRUCTURES AND  
TAKE-OUT SERVICE RESTAURANTS AND CHAPTER 12.64 OF TITLE 12  
PERTAINING TO WOOD BURNING FIREPLACES

The City Council of the City of Los Altos does hereby ordain as follows:

**SECTION 1. AMENDMENT OF CODE:** The following Chapters of Title 14 of the Los Altos Municipal Code entitled "R1-10 Single-Family District", "R1-H Single-Family District", "R1-20 Single-Family District", "R1-40 Single-Family District" and "Second Living Units in R1 Districts" regulating second living units is hereby amended to read as follows:

**14.06.020 Permitted uses (R1-10).**

- A. One-family residences, including private garages, carports, and other accessory structures;
- B. Second living units as provided in Chapter 14.14 of this title;
- C. Home occupations;
- D. Agriculture and horticulture;
- E. Animals as provided in Chapter 5.10 of Title 5; and
- F. Family day care and board and care homes as regulated by the California Health and Safety Code.

**14.06.110 Conditional uses (R1-10).**

Upon the granting of a use permit in accordance with the provisions of Chapter 14.80 of this title, the following uses shall be permitted in the R1-10 District:

- A. Community facilities as provided in Chapter 14.70 of this title;
- B. Flag lots; however, flag lots shall not be allowed from combined parcels as outlined in Section 14.06.030 of this chapter; and
- C. Subdivisions, which involve parcels, which have been combined in any manner.

**14.08.020 Permitted uses (R1-H).**

- A. One-family residences, including private garages, carports, and other accessory structures;
- B. Second living units as provided in Chapter 14.14 of this title;
- C. Home occupations;
- D. Agriculture and horticulture;
- E. Animals as provided in Chapter 5.10 of Title 5; and
- F. Family day care and board and care homes as regulated by the California Health and Safety Code.

**14.08.110 Conditional uses (R1-H).**

Upon the granting of a use permit in accordance with the provisions of Chapter 14.80 of this title, the following uses shall be permitted in the R1-H District:

- A. Community facilities as provided in Chapter 14.70 of this title;
- B. Flag lots; however, flag lots shall not be allowed from combined parcels as outlined in Section 14.06.030 of this chapter; and
- C. Subdivisions, which involve parcels, which have been combined in any manner.

**14.10.020 Permitted uses (R1-20).**

- A. One-family residences, including private garages, carports, ~~guest cottages~~, and other accessory structures;
- B. Second living units as provided in Chapter 14.14 of this title;
- C. Home occupations;
- D. Agriculture and horticulture;
- E. Animals as provided in Chapter 5.10 of Title 5; and
- F. Family day care and board and care homes as regulated by the California Health and Safety Code.

**14.10.110 Conditional uses (R1-20).**

Upon the granting of a use permit in accordance with the provisions of Chapter 14.80 of this title, the following uses shall be permitted in the R1-20 District:

- A. Community facilities as provided in Chapter 14.70 of this title;
- B. Flag lots; however, flag lots shall not be allowed from combined parcels as outlined in Section 14.10.030 of this chapter; and
- C. Subdivisions, which involve parcels, which have been combined in any manner.

**14.12.020 Permitted uses (R1-40).**

- A. One-family residences, including private garages, carports, and other accessory structures;
- B. Second living units as provided in Chapter 14.14 of this title;
- C. Home occupations;
- D. Agriculture and horticulture;
- E. Animals as provided in Chapter 5.10 of Title 5; and
- F. Family day care and board and care homes as regulated by the California Health and Safety Code.

**14.12.110 Conditional uses (R1-40).**

Upon the granting of a use permit in accordance with the provisions of Chapter 14.80 of this title, the following uses shall be permitted in the R1-40 District:

- A. Community facilities as provided in Chapter 14.70 of this title;
- B. Flag lots; however, flag lots shall not be allowed from combined parcels as outlined in Section 14.12.030 of this chapter; and
- C. Subdivisions, which involve parcels, which have been combined in any manner.

**14.14.010 Permitted uses.**

In accordance with the provisions of this chapter and upon the granting of design review as provided in Chapter 14.78, of this title, one second living unit may be permitted on a lot or parcel within a single-family residential zoning district that has a minimum of the greater of: (1) one hundred fifty (150) percent of the lot area required in the residential zoning district in which the second living unit is proposed to be located; or (2) fifteen thousand (15,000) square feet of lot area. A second living unit may be established through:

- A. The conversion of existing floor space in a single-family structure; in which case the figures of one hundred fifty (150) percent and fifteen thousand (15,000) square feet set forth above shall be reduced to one hundred thirty (130) percent and thirteen thousand (13,000) square feet respectively in the R1-10 zoning district, and reduced to one hundred (100) percent of the minimum required lot area in the R1-20, R1-H and R1-40 zoning districts.
- B. An integral addition to a single-family structure; in which case the figures of one hundred fifty (150) percent and fifteen thousand (15,000) square feet set forth above shall be reduced to one hundred thirty (130) percent and thirteen thousand (13,000) square feet respectively in the R1-10

zoning district, and reduced to 100 percent of the minimum required lot area in the R1-20, R1-H and R1-40 zoning districts.

- C. The conversion of an existing accessory structure provided its location on the property is in conformance with present setback regulations; or
- D. The construction of a new accessory structure.

#### **14.14.030 Required findings for approval.**

In addition to the findings required by Chapter 14.78 of this title, the following findings shall be made prior to approval of a second living unit:

- A. That public benefit will result because the proposed second living unit will be maintained as affordable for a lower- or very low-income household;
- B. That appropriate administrative measures, including disclosure of the maximum rent allowed and the income level of the occupant(s), have been required which will ensure that if the second living unit is rented or leased, it will be at a rate which is affordable to a person or persons of lower- or very low-income levels as required by Section 14.14.040 of this chapter, and that the income level of the resident(s) of the second living unit meets the appropriate limits for a lower- or very low-income household as determined by the city based on state and federal guidelines;
- C. That required parking areas are located on the site;
- D. That the parcel size is adequate in size to maintain a second unit and related parking in terms of its status as an accessory use both visually and functionally;
- E. That when a property has frontage on more than one street, the access for the main residence and second living unit has been combined in such a way as to reduce the prominence and visibility of the second living unit parking to the surrounding neighborhood; provided, however, that on a corner lot the appropriateness of combining the access of the main residence and the second living unit shall be determined on a case-by-case basis;
- F. Appropriate conditions have been applied as necessary to ensure that the second living unit will not adversely impact neighboring property owners due to:
  - 1. Inappropriate location, amount and/or design of on-site parking;
  - 2. Inappropriate location with respect to the character of the existing neighborhood;
  - 3. Excessive noise potential, particularly when neighboring homes are in close proximity;
  - 4. An excessive number of second living units in the vicinity;
  - 5. Insufficient screening of the unit; and
  - 6. Lack of compliance with the floor area ratio, setback, lot coverage, and other development standards of the R1 zoning districts.

#### **14.14.040 Unit size and occupancy requirements.**

- A. The maximum size of a second living unit, not including basements or any covered parking, shall be eight hundred (800) square feet. However, a second living unit of greater than the maximum size may be considered only within a residential or accessory structure, which existed prior to March 1, 1995, and subject to the required findings in Section 14.14.030.
- B. No more than two persons shall reside in a second living unit.
- C. Either the principal living unit or the second living unit shall be the principal residence of at least fifty percent (50) of record owners of the property.
- D. If the property owner resides in the second living unit, then the primary residence can be rented at market rate, but shall have no effect on the affordability requirement for the second living unit for future occupancies.
- E. If rented or leased, second living units with a size of greater than six hundred forty (640) square feet shall be affordable to a person or persons of very low-income levels, and the

- income level of the person(s) renting the second living unit shall not be greater than the limits for a very low-income household as determined by the city based on state and federal guidelines.
- F. If rented or leased, second living units with a size of not more than six hundred forty (640) square feet shall be affordable to a person or persons of lower-income levels, and the income level of the resident(s) of the second living unit shall not be greater than the limits for a lower-income household as determined by the city based on state and federal guidelines.
- G. The resident income limits in subsections E and F of this section shall not apply if the second living unit is occupied by an immediate family member.

**SECTION 2. AMENDMENT OF CODE:** The following Chapters of Title 14 of the Los Altos Municipal Code entitled “General Provisions and Definitions”, “R1-10 Single-Family District”, “R1-H Single-Family District”, “R1-20 Single-Family District”, and “R1-40 Single-Family District” regulating basements is hereby amended to read as follows:

**14.02.070 Definitions.**

“Basement” means the following:

1. For all R1 zoning districts, basement means that portion of a structure located entirely below grade, with the exception of the top of such basement which may extend for a vertical distance not exceeding two feet from the outside grade to the finished floor above. As used herein, the term “grade” shall mean either the natural grade or finished grade adjacent to the exterior walls of the structure, whichever is lower. No portion of any structure with an exposed wall shall be considered a basement, with the exception of below grade garages that are screened from public view by either topography or built improvements.
2. For all other zoning districts, basement means that portion of a building between the floor and the ceiling, which is wholly or partly below grade and so located that the vertical distance from the grade to the floor below is equal to or greater than the vertical distance from the grade to the ceiling.

**14.06.160 Basements (R1-10).**

Basements shall be regulated as follows:

- A. Basements shall not extend beyond the footprint of the main, or accessory, structure above.
- B. Light wells, ingress and egress wells, patio wells, and other similar elements shall not be permitted within a required front or exterior side yard setback. These elements may be permitted within an interior side or rear yard setback, but in no event closer than six feet to a property line.
- C. Light wells, ingress and egress wells, patio wells, and other similar elements shall utilize vertical retaining walls. Contour graded slopes, which expose the basement as a story, are prohibited.

**14.08.150 Basements (R1-H).**

Basements shall be regulated as follows:

- A. Basements shall not extend beyond the footprint of the main, or accessory, structure above.
- B. Light wells, ingress and egress wells, patio wells, and other similar elements shall not be permitted within a required front or exterior side yard setback. These elements may be permitted within an interior side or rear yard setback, but in no event closer than six feet to a property line.
- C. Light wells, ingress and egress wells, patio wells, and other similar elements shall utilize vertical retaining walls. Contour graded slopes, which expose the basement as a story, are prohibited.

**14.10.150 Basements (R1-20).**

Basements shall be regulated as follows:

- A. Basements shall not extend beyond the footprint of the main, or accessory, structure above.
- B. Light wells, ingress and egress wells, patio wells, and other similar elements shall not be permitted within a required front or exterior side yard setback. These elements may be permitted within an interior side or rear yard setback, but in no event closer than six feet to a property line.
- C. Light wells, ingress and egress wells, patio wells, and other similar elements shall utilize vertical retaining walls. Contour graded slopes, which expose the basement as a story, are prohibited.

**14.12.150 Basements (R1-40).**

Basements shall be regulated as follows:

- A. Basements shall not extend beyond the footprint of the main, or accessory, structure above.
- B. Light wells, ingress and egress wells, patio wells, and other similar elements shall not be permitted within a required front or exterior side yard setback. These elements may be permitted within an interior side or rear yard setback, but in no event closer than six feet to a property line.
- C. Light wells, ingress and egress wells, patio wells, and other similar elements shall utilize vertical retaining walls. Contour graded slopes, which expose the basement as a story, are prohibited.

**SECTION 3. AMENDMENT OF CODE:** The following Chapters of Title 14 of the Los Altos Municipal Code entitled “R1-10 Single-Family District”, “R1-H Single-Family District”, “R1-20 Single-Family District”, and “R1-40 Single-Family District” regulating accessory structures is hereby amended to read as follows:

**14.06.080 Rear yard (R1-10).**

- D. No accessory structure shall exceed twelve (12) feet in height; provided, however, the Architectural and Site Control Committee may approve an accessory structure located within the main structure building envelope to extend up to eighteen (18) feet in height if the Committee finds and determines that the additional height is necessary in order to establish architectural compatibility with the main structure.

**14.08.080 Rear yard (R1-H).**

- D. No accessory structure shall exceed twelve (12) feet in height; provided, however, the Architectural and Site Control Committee may approve an accessory structure located within the main structure building envelope to extend up to eighteen (18) feet in height if the Committee finds and determines that the additional height is necessary in order to establish architectural compatibility with the main structure.

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**14.12.080 Rear yard (R1-40).**

- D. No accessory structure shall exceed twelve (12) feet in height; provided, however, the Architectural and Site Control Committee may approve an accessory structure located within the main structure building envelope to extend up to eighteen (18) feet in height if the Committee finds and determines that the additional height is necessary in order to establish architectural compatibility with the main structure.

**SECTION 4. AMENDMENT OF CODE:** The following Chapters of Title 14 of the Los Altos Municipal Code entitled "General Provisions and Definitions" and "CRS Downtown Commercial Retail Sales District" regulating take-out service restaurants is hereby amended to read as follows:

**14.02.070 Definitions.**

"Restaurant" means any eating or drinking establishment having seating capacity which sells or offers for sale to the public any food or drink for immediate consumption on the premises, and includes any coffee shop, cafeteria, cafe, tavern, bar, soda fountain or dining room.

**14.48.050 Conditional uses and structures (CRS).**

Upon the granting of a use permit in accordance with the provisions of Chapter 14.80 of this title, the following uses, buildings, additions to buildings, or interior remodeling of buildings shall be permitted in the CRS District:

- A. Cocktail lounges;
- B. Commercial recreation establishments, excluding bowling alleys, pool halls, and amusement arcades;
- C. Dance and music studios;
- D. Dog grooming;
- E. Drop in day care centers;
- F. Farmers' markets;
- G. Food markets and grocery and convenience stores;
- H. Glass sales, excluding installations;
- I. Hotels providing an unlimited number of rooms with kitchens, on second floor;
- J. Interior decorating shops;
- K. Laundry and dry cleaning establishments, including self-serve laundries and dry cleaning;
- L. Living quarters, subject to the following conditions:
  - 1. Living quarters shall be provided on the second floor,
  - 2. Sufficient off-street parking shall be provided on the site or within two hundred (200) feet thereof provided such parking can be guaranteed (by deed or instrument satisfactory to the city attorney) for the life of the conditional use, and
  - 3. Any further conditions the commission and council deem necessary to comply with the provisions of Section 14.02.020 of Chapter 14.02;
- M. Personal grooming services, if located in a ground floor building space that fronts directly on Main Street or State Street;
- N. Pet shops including grooming of small animals, provided such activities take place within an entirely enclosed building, and excluding the boarding of animals not offered for sale;
- O. Pool supply and service shops;
- P. Restaurants with greater than thirty-two (32) seats (combined indoor and outdoor seating), excluding drive-in and/or take-out services;
- Q. Service stations provided the site has at least one hundred (100) feet of frontage on a street and a minimum site area of twenty thousand (20,000) square feet. The setback of structures shall be determined by the commission;
- R. Take-out services associated with permitted uses, so long as each use is not less than one hundred fifty (150) feet from one another;
- S. Transportation terminals;
- T. Utility facilities essential to provision of utility services, but excluding construction or storage yards, maintenance facilities, or corporation yards;
- U. Upholstery shops;

- V. Any single retail and/or service use exceeding three thousand five hundred (3,500) square feet in a building which has an area greater than seven thousand (7,000) gross square feet, which use did not exist prior to March 26, 1984;
- W. All new buildings, which have an area greater than seven thousand (7,000) gross square feet;
- X. All additions to existing buildings which would result in the total building area exceeding seven thousand (7,000) gross square feet in area, including additions to buildings which presently exceed seven thousand (7,000) gross square feet in area;
- Y. Any interior remodeling which would result in the expansion of retail and/or service uses in a building which presently has an area in retail and/or service uses exceeding seven thousand (7,000) gross square feet. For the purposes of this subsection, offices on the second floor shall not be considered retail and/or service uses;
- Z. Other uses which are determined by the city planner to be of the same general character, and are found to be consistent with the village atmosphere as set forth in the vision statement and specific purposes of the CRS zone.

For the purposes of this section, "gross square feet" shall include the total horizontal area in square feet on each floor, including all walls and stairways above grade, but not including a basement parking structure.

A determination made by the city planner as to whether a use is conditional in the CRS zone may be appealed to the planning commission, and a decision made by the planning commission may be appealed to the city council. All appeals shall be made in writing within fifteen (15) days of the date of the action, and shall be accompanied by the appropriate fee as set forth by resolution of the city council. A decision made by the planning commission may be appealed if so requested by two city council members at the next regular meeting of the city council.

**SECTION 4. AMENDMENT OF CODE.** The following Chapter of Title 12 of the Los Altos Municipal Code entitled "Wood Burning Fireplaces Prohibited" regulating fire places is hereby amended to read as follows:

**Chapter 12.64**

**WOOD BURNING APPLIANCES**

**12.64.020 Definitions.**

- A. "EPA" means the United States Environmental Protection Agency.
- B. "EPA certified wood-burning appliance" means any wood-burning device that meets the Code of Federal Regulation in effect at the time of installation and is certified and labeled pursuant to those regulations.
- C. "Fireplace" means any permanently installed masonry or factory built wood-burning device designed to be used with an air-to-fuel ratio greater than or equal to 35-to-1, excluding pellet-fueled wood heaters.
- E. "Gas fireplace" means any device designed to burn natural gas in a manner that simulates the appearance of a wood-burning fireplace.
- F. "New construction" means construction of new structures and additions to existing structures.
- G. "Pellet-fueled wood heater" means any wood-burning device that operates exclusively on wood pellets.
- H. "Wood-burning appliance" means fireplace, wood heater, or pellet-fueled wood heater, or any similar device burning any solid fuel used for aesthetic or space-heating purpose.

**12.64.030 Application.**

- A. Only gas fireplaces, pellet-fueled wood heaters, or EPA certified wood-burning appliances may be installed in new construction.
- B. Excluded from these regulations are devices intended to be solely used for the preparation of food (i.e., wood-burning ovens and outdoor barbeques), and existing fireplaces.
- C. Existing fireplaces, regardless of how many exist, may be used and maintained indefinitely. Once these existing fireplaces are removed, only gas fireplaces, pellet-fueled wood heaters, or EPA certified wood-burning appliances may be installed in their place.
- D. It is unlawful to burn garbage, plastics, rubber, paints, solvents, oil, treated wood products, particle board, coal or any other material that produces noxious or toxic emissions when burned in a wood-burning fireplace.

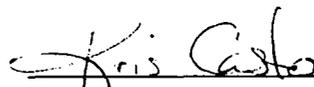
**SECTION 5. CONSTITUTIONALITY.** If any section, subsection, sentence, clause or phrase of this code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

**SECTION 6. PUBLICATION.** This ordinance shall be published as provided in Government Code section 36933.

**SECTION 7. EFFECTIVE DATE.** This ordinance shall be effective upon the commencement of the thirty-first day following the adoption date.

The foregoing ordinance was duly and regularly introduced at a meeting of the City Council of the City of Los Altos on September 23, 2003 and was thereafter, at a regular meeting held on October 14, 2003 passed and adopted by the following vote:

Ayes: MOSS, BECKER, LEAR, CASTO  
Noes: LA POLL  
Absent: None

  
\_\_\_\_\_  
Kris Casto, Mayor

Attest:

  
\_\_\_\_\_  
Susan Kitchens, City Clerk